

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PORTFOLIO SOLUTIONS, LLC,

Plaintiff,

No. 08-12751

v.

Hon. John Corbett O'Meara

ETF PORTFOLIO SOLUTIONS, INC.,

Defendant.

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ORDER OF PARTIAL DISMISSAL

On June 27, 2008, Plaintiff filed a complaint setting forth the following counts: Count I, violation of 15 U.S.C. § 1501 et seq. (trademark infringement); Count II, violation of 15 U.S.C. § 1501 et seq. (unfair competition and false designation); and Count III, violation of M.C.L.A. § 445.903 (infringement and unfair practices).

While alleged violations of 15 U.S.C. § 1501 et seq. are cognizable in this court pursuant to 28 U.S.C. § 1338, the remaining allegation presents a claim based on state law. Since the parties to this matter are not diverse, this court declines to exercise supplemental jurisdiction over the latter claim so as to avoid jury confusion. See 28 U.S.C. § 1367(c); United Mine Workers v. Gibbs, 383 U.S. 715 (1966); Padilla v. City of Saginaw, 867 F. Supp. 1309 (E.D. Mich. 1994).

Accordingly, it is hereby **ORDERED** that Count III of Plaintiff's complaint is **DISMISSED**.

s/John Corbett O'Meara
United States District Judge

Date: July 18, 2008

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, July 18, 2008, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager